

## **REMARKS**

In the Action, the Examiner has rejected a significant number of the claims as being unpatentable over Kojima et al. in view of Hauer. Essentially, the position the Examiner has taken relates to an identification of the elements in Applicant's arrangement relative to Kojima et al. It has been stated that Kojima et al. has a system for preventing unauthorized access to a vehicle and that the vehicle has an engine housing and an ignition generator coil connected with the magneto.

It has been Applicant's position throughout prosecution of this case that an engine housing is not identical in structure or function to a cowling. It is this latter element that is provided in Kojima et al. Specifically, cowlings house engine components such as pistons, spark plugs, rings, valves, valve lifters, etc. A cowling does not retain these components, but rather protects the same from dirt, debris and is also contributory to the appearance of the article. As an example, the cowling from a single propeller aircraft does not retain components critical to engine operation, but rather protects the engine components from debris and also enhances the appearance and aerodynamics of the aircraft itself. Cowlings are not engine housings. Despite this clear difference, Applicant has amended its claims and particularly the independent claims 1, 5 and 16 to further specify that the engine housing is within an engine compartment and that the switch means is mounted within the engine housing. Kojima et al. simply do not provide this feature. This is evident from the Kojima drawings where the components are simply extraneous and therefore easily accessible thus completely defeating the purpose of Applicant's arrangement. In Applicant's arrangement the entire point is to retain the critical switch for the ignition generator coil in such a position that it is completely inaccessible unless one employs special tools and has a skill to access the switch. This is not provided for in Kojima et al., nor does the Kojima et al. reference contemplate or hint at the possibility that this is an option. If this were the case, Kojima would have recognized the weakness in having the critical components

outside of the engine housing, i.e. between the engine housing and the cowling as opposed to directly within the engine housing seated in the engine compartment.

In view of the additional clarity that has been mentioned in the claims, it is believed that the claims now clearly set forth the relationship of the components relative to the engine housing which is definitive over Kojima et al. Reconsideration is respectfully requested.

Claims 9 and 10 have been deemed unpatentable over the combination of Kojima et al. in view of Hauer and further in view of Phelon et al.

Applicant has reviewed the Hauer patent in detail and it would appear that the teachings are unrelated to Applicant's amended claims. The Hauer reference indicates that ...

“to make the protective system an internal part of the engine block or its attached vital accessories, such as the starter, the ignition system, the fuel pump or the like. In this manner it becomes impossible to access, remove, replace or disable the protective system as long as the engine block is in its place.”

The patent indicates that the security modules must be as small as possible to fit inside the accessory such as the distributor, the solenoid, the fuel pump, etc. and need to be interfaced with a central control unit at the dashboard to receive authorization codes and to signal enable or disable states.

By this passage alone, the difference in what is provided in Hauer relative to Applicant's claimed invention is striking. In the Hauer reference once again, the critical components **are not disposed** within the engine housing, but rather within individual components of the housing. Individual components of an engine have nothing to do with the engine housing itself. They are mutually exclusive elements. In this scenario, there is no question that the system can be tampered with since each “valuable” component has its own switch and the switch is therefore external

and communicates with a receiver within the vehicle itself. Accordingly, the Hauer arrangement provides an external switch with an internal transponder. Once again, the problem Applicant has solved has not been addressed in the Hauer arrangement. In the Hauer disclosure it is indicated that ...

“this way, it prevents the operation of the accessory and the entire power plant unless a proper authorization code is received from the external Code Sender.”

It is evident from the Hauer arrangement that an active unit, referenced as numeral 2 in the drawings is an integral part of the starter and a second passive unit 6 is mounted securely in the engine block. The active unit 2 is mounted in the solenoid of the starter and controls the starter circuit to operate it only subsequent to reception of a valid dataword. The passive unit which is a non-removable part of the engine block performs no functions and hence is passive. The second module is indicated to be mounted internally of the engine, but as stated above, the module is a passive unit. In this manner, the second passive unit is clearly not a switch but only a serial number which communicates with the external module for verification. Applicant submits that the arrangement cannot stand alone when used as an internal switch as it has no disabling means internally. It is further submitted that the Hauer disclosure does not illustrate any connections or accessories in the drawings to show that an internal arrangement for switching was contemplated.

By providing an externally mounted active code module and a passively actuated module this system can be bypassed by removal/disconnection of either module with the stock or OEM wiring configuration restored or by straightforward replacement of the “vital accessory”. To reiterate, Applicant’s arrangement is not so limited. The only way to disable the system is effectively to obtain access to the internal protection of the engine housing mounting the ignition interruption circuit as has been stated throughout the prosecution of this case. This is one of the key

features of this invention and renders the arrangement effectively inaccessible within a pragmatic amount of time.

It is Applicant's position that the Examiner has not provided any references which are anticipatory or render obvious the claims in this case. Throughout the prosecution Applicant has maintained the difference between an engine compartment, an engine housing and an engine cowling. There are significant differences between these and these have been outlined in the arguments presented in this case. To this end, as stated herein previously the claims have been amended to now clearly make reference to the fact that there is an engine housing that is positioned within an engine compartment.


In terms of the Phelon et al. reference, the Maxon reference and any of the other references made of record in the case, Applicant submits that these are simply not relevant to the case whatsoever. In terms of the Maxon reference, Applicant has stated in the previous response that Maxon simply provides a switch means that may comprise a remote control switch. A remote control switch includes a transmitter and receiver. Apart from the fact that Maxon is being used to demonstrate components which have been known for decades, there are no similarities in the features of Maxon relative to the claimed invention. The Phelon et al. reference has been used to teach the stator plate again which has been known for a number of years. It is the Examiner's position that the combination of Kojima et al., Phelon et al., Maxon and Hauer are useful to render obvious the claims. Applicant respectfully disagrees with this combination; a key reference in the combination, namely Kojima et al., is entirely lacking in the components of the amended claims in this case and does not teach a method which is even remotely similar to the method or apparatus Applicant is claiming. The remaining references in the combination are even more distant and add nothing to lead one skilled in the art to the claimed invention. Applicant's position is that Kojima et al., in view of the significant deficiency relative to the claimed invention, does not provide a basis for

clear instruction that can be augmented by the remaining references in the combination. Kojima et al. is grossly deficient and cannot be said to be useful to provide instruction to the skilled man.

Reconsideration is respectfully requested in respect of the drawing, Applicant has amended the drawing and enclosed the same for the review of the Examiner.

In view of the amendments made, it is now believed that the application is in condition for allowance. Early action to this end is respectfully requested.

Respectfully submitted,  
Carl Ellingsworth

By   
Paul S. Sharpe  
Registration No. 39,493  
Attorney for Applicant

PSS/lmf  
December 8, 2003

SWABEY OGILVY RENAULT  
1981 McGill College Avenue  
Suite 1600  
Montreal, Quebec, Canada  
H3A 2Y3